

### **REMARKS**

This amendment is responsive to the Office Action dated September 18, 2009. Applicant has amended claims 1, 8, 12, 24, 34, 38, and 40, and canceled claims 30 and 39. Claims 1–29, 31–38, and 40 are pending.

#### **Allowable Subject Matter**

In the Office Action, the Examiner objected to claims 38 and 39 as including subject matter that would be allowable if rewritten in independent form. In this amendment, Applicant has amended claim 38 to include all subject matter recited by the base claim 1. Consequently, claim 38 is in condition for allowance.

Applicant has amended independent claim 1 to include the subject matter of allowable claim 39. Applicant has likewise amended independent claim 24 to include the subject matter of allowable claim 39. Consequently, claims 1 and 24 and the claims dependent therefrom are in condition for allowance.

Applicant has amended independent claims 12 and 34 to include the subject matter of allowable claim 38. Consequently, claims 1 and 24 and the claims dependent therefrom are in condition for allowance.

Applicant has amended claim 40 to include additional limitations found in claim 1. Claim 40 already includes the features of allowable claim 39. Consequently, independent claim 40 is in condition for allowance.

#### **Claim Rejection Under 35 U.S.C. § 112**

The Office Action rejected claims 1, 10, 12, 24, 34 and 40 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Office Action asserted that claims 1, 10, 12, 24, 34 and 40 contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. Specifically, the Office Action Applicant indicated that the Examiner was unable to find support for the limitation “wherein at least one of the plurality of intermediate networks does not support the L2 service.”

Claim 1 requires “providing an L2 service in accordance with the L2 service information to transport L2 communications between the first customer network and the second customer network through the plurality of intermediate networks using the LSP.” Prior to this amendment, claim 1 further required “wherein at least one of the plurality of intermediate networks does not support the L2 service.” Although this limitation is clearly supported in the specification, as explained below, Applicant has deleted this language from independent claims 1, 12, 24, 34 and 40 to expedite prosecution. Nonetheless, although this express limitation has been removed, claims 1, 12, 24, 34 and 40 still cover situations in which at least one of the plurality of intermediate networks does not support the L2 service to transport L2 communications between customer networks using an LSP in accordance with Media Access Control (MAC) address state information for devices in the first customer network.

Further to this point, dependent claim 10 recites “[t]he method of claim 1, wherein the L2 service comprises the Virtual Private LAN Service and the L2 communications comprise Ethernet communications, and wherein at least one of the plurality of intermediate networks does not support the Virtual Private LAN Service.” To illustrate example support, Applicant refers the Examiner to paragraph [0005] of the original specification, which states:

While a VPLS may provide transparent L2 connectivity across a single intermediate network, establishing L2 connectivity via VPLS across one or more intermediate networks becomes increasingly difficult, especially when the intermediate networks are provided by different service providers. In particular, the intermediate networks may not support VPLS, and the service providers associated with the intermediate networks may be unwilling to do so due to the increased overhead and cost associated with VPLS. (Emphasis added).

Claim 10 finds clear support in this passage of the original specification, which states that intermediate networks may not support the Virtual Private LAN Service. Thus, claim 10 contains subject matter which was described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

The Office Action rejected claims 24, 34, 37 and 40 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 24, 34, 37 and 40 for purposes of clarification. Applicant submits that claims 24, 34, 37 and 40, as amended,

particularly point out and distinctly claim the subject matter which applicant regards as the invention, as required by 35 U.S.C. 112, second paragraph.

In view of the above, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. 112, first paragraph and second paragraph.

**Claim Rejection Under 35 U.S.C. § 103**

In the Office Action, the Examiner rejected claims 1-3, 5-14, 16-26, 28-29, 31-37 and 40 under 35 U.S.C. 103(a) as being unpatentable over Sanderson et al. (US 2004/0223500) in view of Kompella et al. (Non-Patent Literature – Virtual Private LAN Services over MPLS). In the Office Action, the Examiner rejected claims 4, 15 and 27 under 35 U.S.C. 103(a) as being unpatentable over Sanderson et al. (US 2004/0223500) in view of Kompella et al. (Non-Patent Literature – Virtual Private LAN Services over MPLS) as applied to claim 1, and further in view of Bragg (US 7,286,479).

Applicant does not acquiesce to the arguments set forth by the Office Action, but has nevertheless amended the claims to expedite prosecution. As set forth above, Applicant has amended independent claims 1, 12, 24, 34 and 40 to incorporate allowable subject matter. The rejections under 35 U.S.C. § 103 are therefore rendered moot and should be withdrawn.

**CONCLUSION**


All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

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